

SECOND REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 1722

96TH GENERAL ASSEMBLY

5683L.02P

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 173.606, 173.608, 173.612, 173.614, 173.616, and 173.618, RSMo, and to enact in lieu thereof six new sections relating to proprietary schools, with a penalty provision.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 173.606, 173.608, 173.612, 173.614, 173.616, and 173.618, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 173.606, 173.608, 173.612, 173.614, 173.616, and 173.618, to read as follows:

173.606. 1. Annually, each proprietary school desiring to operate in this state shall make written application to the board on forms furnished by the board. Such application shall include the identification of all locations operated by a proprietary school and shall identify a single location as a principal facility for the purpose of record keeping and administration. Any location at which education is offered by a franchisee of a franchisor approved to operate as a proprietary school shall be deemed a location within the scope of such franchisor's approval if such franchisor establishes the course curriculum and guidelines for teaching at such location.

2. The department of higher education shall review the application and may conduct an investigation of the applicant to ensure compliance with the rules and regulations. **A proprietary school in continuous operation for a period of no less than five years shall be eligible to apply for certification that is valid for two years.**

3. A certificate of approval is nontransferable. A change in the sole proprietor of a school, a change in the majority interest of general partners of a partnership owning a school, or a change in majority of stock ownership of a school shall for the purpose of sections 173.600 to 173.618 be deemed a transfer of ownership. Within thirty days of a transfer of ownership the

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 new owner shall make written application to the board for a new certificate of approval. This
17 application shall be processed like an initial application, except that the board may issue a
18 temporary certificate of approval if the chief administrator of the school furnishes a written
19 statement asserting that all of the conditions set forth in the rules and regulations are being met
20 or will be met before offering training or education. A temporary certificate shall be effective
21 for a maximum of sixty days.

22 4. Any school denied exemption or a certificate of approval and any approved school
23 whose certificate is revoked or suspended may appeal to the administrative hearing commission.

173.608. 1. The **base** annual fee for a proprietary school certificate of approval shall be
2 ~~[\$.001]~~ **\$.0013** per one dollar of net tuition and fees income (excluding refunds, books, tools and
3 supplies), with a maximum of ~~[two thousand five hundred]~~ **five thousand** dollars and a
4 minimum of ~~[two hundred fifty]~~ **five hundred** dollars per school. For a school having a
5 certificate of approval for the sole purpose of recruiting students in Missouri, the net tuition used
6 for this computation shall be only that paid to the school by students recruited from Missouri and
7 the fee shall be ~~[two hundred fifty]~~ **five hundred** dollars plus the amount produced by the
8 foundation calculation, **with a maximum of five thousand dollars. Every five years,**
9 **beginning with fiscal year 2013, the coordinating board may increase the base annual fee**
10 **as well as the related minimum and maximum amounts by administrative rule no more**
11 **than the Consumer Price Index for All Urban Consumers (CPI-U), 1982-1984=100, not**
12 **seasonally adjusted, as defined and officially recorded by the United States Department of**
13 **Labor, or its successor agency, for the period since the last fee increase.**

14 2. In addition to the annual fee for a certificate of approval, the coordinating board
15 may establish by administrative rule additional appropriate fees if necessary to generate
16 funding sufficient to cover the entirety of costs associated with the operation of the
17 proprietary school certification program, with advice of the proprietary school advisory
18 committee.

19 [2.] 3. Any school which operates at two or more locations, or has franchised schools as
20 provided in section 173.606, may combine tuition and fees for all locations for the purpose of
21 determining the annual fee payable under sections 173.600 to 173.618. [All fees received shall
22 be deposited in the state treasury to the credit of general revenue.]

23 4. All revenue received by the coordinating board from the fees authorized in this
24 section shall be deposited in the state treasury to the credit of the "Proprietary School
25 Certification Fund" which is hereby created for the sole purpose of funding the costs
26 associated with the operation of the proprietary school program. Notwithstanding the
27 provisions of section 33.080 to the contrary, any moneys remaining in the fund at the end
28 of the biennium shall not revert to the credit of the general revenue fund.

173.612. 1. The board shall, through the department of higher education, administer, supervise, and enforce the provisions and policies of sections 173.600 to 173.618 and shall assign the personnel that are necessary to exercise its powers and duties.

2. The rules and regulations adopted by the board under sections 173.600 to 173.618, together with any amendments thereto, shall be filed with the office of the secretary of state. The board may:

(1) Issue proprietary school certificates of approval or temporary certificates of approval to applicants meeting the requirements of sections 173.600 to 173.618;

(2) Suspend or revoke certificates or temporary certificates of approval, or place certified schools on probation;

(3) Require each proprietary school to file a security bond covering the school and its agents to indemnify any student, enrollee or parent, guardian, or sponsor of a student or enrollee who suffers loss or damage because of a violation of sections 173.600 to 173.618 by the school, or because a student is unable to complete the course due to the school's ceasing operation or because a student does not receive a refund to which he is entitled. The bond or other security shall cover all the facilities and locations of a proprietary school and shall not be less than five thousand dollars or ten percent of the preceding year's gross tuition, whichever is greater, but in no case shall it exceed [twenty-five] **one hundred** thousand dollars. The bond shall clearly state that the school and the agents of the school are covered by it. The board may authorize the use of certificates of deposit, letters of credit, or other assets to be posted as security in lieu of this surety bond requirement;

(4) Collect **only that** data from certified proprietary schools [appropriate to establish records and statistics necessary to provide evaluation and planning by the department of higher education] **necessary to administer, supervise, and enforce the provisions of sections 173.600 to 173.619. The department shall, subject to appropriations, provide a system to electronically submit all data;**

(5) **Review proposals for new programs within ninety days from the date that a certified school submits a new program for review, and review proposals for revised programs within sixty days from the date that a certified school submits a revised program for review. If the department fails to review a proposal for a new or revised program within the prescribed time frame, the school shall be permitted to offer the program until the department completes its review and identifies a substantive issue or issues that need correction. In such case the department must notify the school within an additional ninety days and the school would then have ninety days from the date it is informed that a program offering has a deficiency to correct the deficiency without having to cease offering the program;**

37 (6) Administer sections 173.600 to 173.618 and initiate action to enforce it.

38 3. Any school which closes or whose certificate of approval is suspended, revoked, or
39 not renewed shall, on the approval of the coordinating board, make partial or full refund of
40 tuition and fees to the students enrolled, continue operation under a temporary certificate until
41 students enrolled have completed the program for which they were enrolled, make arrangements
42 for another school or schools to complete the instruction for which the students are enrolled,
43 employ a combination of these methods in order to fulfill its obligations to the students, or
44 implement other plans approved by the coordinating board.

45 4. Any rule or portion of a rule promulgated pursuant to sections 173.600 to 173.618
46 may be suspended by the joint house-senate committee on administrative rules until such time
47 as the general assembly may by concurrent resolution signed by the governor reinstate such rule.

 173.614. 1. The "Proprietary School Advisory Committee" is hereby created consisting
2 of seven members. All members shall be appointed by the [board] **commissioner of higher**
3 **education** and shall be [either individual proprietors, general partners of partnerships,] **owners**
4 or managerial employees of proprietary schools. The initial appointment of members to the
5 committee shall be made within sixty days after September 28, 1983, and shall consist of two
6 members appointed for terms expiring one year from September 28, 1983, two members
7 appointed for terms expiring two years from September 28, 1983, and three members appointed
8 for terms expiring three years from September 28, 1983. The terms of members initially
9 appointed shall be designated by the board. Thereafter, each appointment shall be for a term of
10 three years. If a committee member resigns or for any reason is unable or ineligible to continue
11 to serve, a new member shall be appointed by the board to fill the unexpired term. **At all times**
12 **at least three members of the committee shall represent schools that confer a degree and**
13 **at least one of the three shall represent a school that confers a degree at the baccalaureate**
14 **level or higher.**

15 2. The committee shall organize itself by the election of a chairman and other officers
16 as needed.

17 3. The committee shall report to the board at least twice annually and advise the board
18 on matters within the scope of sections 173.600 to 173.618.

19 4. The proprietary school advisory committee shall have the following responsibilities:

20 (1) To advise the board in the administration of sections 173.600 to 173.618;

21 (2) To make recommendations with respect to the rules and regulations establishing
22 minimum standards which are to be adopted by the board; and

23 (3) To advise the board with respect to grievances and complaints.

24 5. Members of the committee shall serve without compensation but may be reimbursed
25 for traveling and other expenses necessarily incurred in the performance of their duties from
26 funds of the department of higher education.

 173.616. 1. The following schools, training programs, and courses of instruction shall
2 be exempt from the provisions of sections 173.600 to 173.618:

3 (1) A public institution;

4 (2) Any college or university represented directly or indirectly on the advisory committee
5 of the coordinating board for higher education as provided in subsection 3 of section 173.005;

6 (3) An institution that is certified by the board as an "approved private institution" under
7 subdivision (2) of section [173.205] **173.1102**;

8 (4) A not-for-profit religious school that is accredited by the American Association of
9 Bible Colleges, the Association of Theological Schools in the United States and Canada, or a
10 regional accrediting association, such as the North Central Association, which is recognized by
11 the Council on Postsecondary Accreditation and the United States Department of Education; and

12 (5) Beginning July 1, 2008, all out-of-state public institutions of higher education, as
13 such term is defined in subdivision (11) of subsection 2 of section 173.005.

14 2. The coordinating board shall exempt the following schools, training programs and
15 courses of instruction from the provisions of sections 173.600 to 173.618:

16 (1) A not-for-profit school owned, controlled and operated by a bona fide religious or
17 denominational organization which offers no programs or degrees and grants no degrees or
18 certificates other than those specifically designated as theological, bible, divinity or other
19 religious designation;

20 (2) A not-for-profit school owned, controlled and operated by a bona fide eleemosynary
21 organization which provides instruction with no financial charge to its students and at which no
22 part of the instructional cost is defrayed by or through programs of governmental student
23 financial aid, including grants and loans, provided directly to or for individual students;

24 (3) A school which offers instruction only in subject areas which are primarily for
25 avocational or recreational purposes as distinct from courses to teach employable, marketable
26 knowledge or skills, which does not advertise occupational objectives and which does not grant
27 degrees;

28 (4) A course of instruction, study or training program sponsored by an employer for the
29 training and preparation of its own employees;

30 (5) A course of study or instruction conducted by a trade, business or professional
31 organization with a closed membership where participation in the course is limited to bona fide
32 members of the trade, business or professional organization, or a course of instruction for

33 persons in preparation for an examination given by a state board or commission where the state
34 board or commission approves that course and school;

35 (6) A school or person whose clientele are primarily students aged sixteen or under.

36 3. A school which is otherwise licensed and approved under and pursuant to any other
37 licensing law of this state shall be exempt from sections 173.600 to 173.618, but a state
38 certificate of incorporation shall not constitute licensing for the purpose of sections 173.600 to
39 173.618.

40 4. Any school, training program or course of instruction exempted herein may elect by
41 majority action of its governing body or by action of its director to apply for approval of the
42 school, training program or course of instruction under the provisions of sections 173.600 to
43 173.618. Upon application to and approval by the coordinating board, such school training
44 program or course of instruction may become exempt from the provisions of sections 173.600
45 to 173.618 at any subsequent time, except the board shall not approve an application for
46 exemption if the approved school is then in any status of noncompliance with certification
47 standards and a reversion to exempt status shall not relieve the school of any liability for
48 indemnification or any penalty for noncompliance with certification standards during the period
49 of the school's approved status.

173.618. 1. Any act, method, or practice which violates the provisions of sections
2 173.600 to 173.618 shall be an unlawful practice within the meaning of section 407.020, and **any**
3 **action authorized in section 407.020 may be taken. In addition,** the board may seek an
4 injunction in the manner provided in chapter 407. The board may exercise the authority granted
5 in subdivision (2) of subsection 2 of section 173.612 without seeking injunction.

6 2. Any person convicted of operating a proprietary school without certificate of approval
7 or a temporary certificate of approval, or of failure to file bond or security as required by sections
8 173.600 to 173.618 or of violating any other provision of sections 173.600 to 173.618 is guilty
9 of a class A misdemeanor and upon conviction shall be punished in the manner provided by law.

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